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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/775,316

02/10/2004

Craig Allen Kukuk

1498

7590

03/08/2006

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EXAMINER

HUSAR, STEPHEN F

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,316

Applicant(s)

KUKUK, CRAIG ALLEN

Examiner

Stephen F. Husar

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 5,6 and 13 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4,8-10 and 12 is/are allowed.
- 6) ☒ Claim(s) 7 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/11/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 5,6, and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/11/06.
2. Applicant's election without traverse of Group I-Claims 1-4 and 7-12 in the reply filed on 1/11/06 is acknowledged.
3. Below is an action on the merits of claims 1-4 and 7-12.

Specification

4. The disclosure is objected to because of the following informalities: Applicant is asked to update by amendment the first paragraph of the specification to reflect that U.S. patent application 10/139582 is now U.S. Patent #7,004,597.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over POOLE (6237461) in view of BADHAM (2629516) and UKE (6666566). Re claim 7, Poole shows in Fig.7; a handle unit "200" housing a deterrent spray canister "460". This handle "200" is orthogonally attached to housing which contains a flashlight "342", stun gun mechanism "98", and laser sights "342" and deterrent spray nozzle "410" (see Fig.8). See the disclosure in col.11, lines 42-55 of Poole for the discussion of light sources "342" for illumination as well as targeting purposes. Poole does not show the handle unit being an elongated member with the handle attached

to the proximal end of the handle unit. Poole also does not show a glass breaking mechanism housed in the handle at the proximal end of the handle unit. Badham is applied to show that it is well known in the art to attach a handle containing a spray canister to the proximal end of a handle unit containing a flashlight and a deterrent spray nozzle at its distal end. Uke is applied to show that it is well known in the art to connect a glass breaking mechanism to the proximal end of a flashlight such as Badham. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Poole as shown by Badham to provide a more elongated member for housing the flashlight and spray nozzle for the purpose and advantage of distancing the user from the deterrent spray and thus prevent accidental back spray. Further, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide on either Poole's or Badham's handle a glass breaking mechanism as taught by Uke for the purpose and advantage of providing a glass breaking function to their respective flashlights. Re claim 11, note in Fig.10 of Poole the plurality of deterrent spray nozzles "62".

Allowable Subject Matter

8. Claims 1-4,8,9,10, and 12 are allowed.


Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Macek is cited of interest as showing a combination containing flashlight, spray deterrent, and stun gun.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen F. Husar whose telephone number is 571-272-2371. The examiner can normally be reached on M-W and F from 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen F. Husar
Primary Examiner
Art Unit 2875

SFH